

13. A treatment material comprising magnesium oxide and calcium phosphate, said magnesium oxide and calcium phosphate mixed in an alkyd, epoxy, acrylic, elastomeric or urethane paint system.

REMARKS

The Examiner has rejected Claims 1 – 13 under 35 U.S.C. 112 as allegedly being indefinite. Applicants have made amendments to the claims which address the Examiner's concerns. First, Applicants have added a period to claim 3. Next, Applicants have added the phrase "said coating" before the recitation "having a hazardous metal or compound contained therein" so that now the phrase "having a hazardous metal or compound therein" clearly refers to the coating. Similar amendments have been made to Claims 4 and 9, all of which serve to alleviate the Examiner's concerns.

Next, the Examiner inquires as to whether there should be an "or" at the end of part (i) of Claim 4(a). The answer is no. Grammatically, conjunctions are properly placed before the last item recited in a list. That is why the "or" has been placed before (iii), which is the last item in the list. For example, a list of items that would be used in the alternative would be: a, b, or c - not a, or b, or c.

The Examiner next inquires as to what the ratio in Claim 4 refers. The ratio is adequately described in the specification at page 9 as the ratio of solids. To more

particularly claim this aspect of the invention, Applicants have amended Claim 4 to include the phrase "wherein (i), (ii) and (iii) are present in a ratio of ...".

To address the Examiner's concerns with respect to Claim 7, Applicants have amended Claim 7 to include subparts (a), (b), and (c). The same has been done for Claim 8. With respect to Claim 13, Applicants have added the phrase "said magnesium oxide and calcium phosphate" to more particularly claim the subject matter.

Also with respect to Claim 13, Applicants submit that the recitation of the alkyd, epoxy, acrylic, elastomeric or urethane paint system further limits the claims, in contrast to the Examiner's contention.

Applicant's submit that the above amendments serve to obviate the Examiner's rejections with respect to indefiniteness.

The text of the rewritten claim marked-up to show the changes relative to the previous version of the claim is attached herewith in Appendix A in accordance with 37 C.F.R. § 1.121(c)(1). Accordingly, reconsideration is requested.

The Examiner has rejected Claims 3-13 under 35 U.S.C. 102 as allegedly being anticipated by Broom et al., U.S. Pat. No. 6,037,469 ("Broom et al."). The Examiner in one sentence concludes that "Broom teaches a material made from the claimed groupings." Applicant's respectfully submit that this is not the case.

For a prior art reference to anticipate claims of a patent, it must expressly or inherently teach the entire claim. A prior art reference must be enabling before it can anticipate. That is, it must provide a description sufficient to teach a person of ordinary

skill in the art how to make and use the apparatus or process. To qualify as an anticipatory reference, the reference must place the claimed invention in the possession of the public. Beckman Instruments, Inc. v. Productter AB, 892 F.2d 1547, 1550, 13 USPQ2d 1301, 1304 (Fed.Cir. 1989).

With respect to Claims 3, 10 –12, Broom et al. do not disclose all the elements as recited in the claims. The Examiner's cursory statement that all the elements of the claim are present on the Broom et al. reference is not sufficient to make out a prima facie case of anticipation. Specifically and among other deficiencies, there is no reference to alum, ferrous sulfate, ferric sulfate, or metallic iron. Further, Broom et al. neither disclose nor enable the skilled artisan to make a treatment material for use in a method for removing a coating, said coating having a hazardous metal or compound contained therein. Therefore, Broom et al. do not anticipate since Broom et al. do not enable the claimed composition and since it does not disclose a treatment material for use in a method for remaking a coating, the coating having a hazardous metal or compound contained therein.

With respect to Claim 4-6, notably and among the other deficiencies mentioned above, Broom et al. recite a laundry list of compounds-none of which are present in the claimed ratio. Further, portland cement is not disclosed in Broom et al.

With respect to Claims 8-10, among the other deficiencies mentioned above, nowhere in Broom et al. is portland cement disclosed.

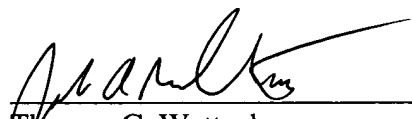
Finally with respect to Claim 13, Broom et al., again, fails to anticipate. Specifically and among the other deficiencies mentioned above, Broom et al. do not disclose magnesium oxide and calcium phosphate mixed in an "alkyd, epoxy, acrylic, elastomeric, or urethane paint system."

Applicant respectfully submits that the patent application and the claims, as amended, therein are in a condition for allowance. Accordingly, reconsideration and allowance of the claims are respectfully requested.

Applicant would appreciate the courtesy of a telephone call should the Examiner have any questions or comments with respect to this response or the claim language for purposes of efficiently resolving same.

Respectfully submitted,
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APPENDIX A

Please find below claims 3-5, 7-9, and 13 marked-up to show the changes incorporated in the above amendment:

3. A treatment material for use in a method for removing a coating, said coating having a hazardous metal or compound contained therein, said treatment material selected from the group consisting of:

Sodium Silicate	Diammonium Phosphate
Sodium Metasilicate	Dicalcium Phosphate
Sodium Orthosilicate	Dipotassium Phosphate
Potassium Silicate	Tricalcium Phosphate
Aluminum Sulfate	Trisodium Phosphate
Alum	Sodium Metabisulfite
Ferrous Sulfate	Metallic Iron
Ferric Sulfate	Silicate of Soda
Tricalcium Silicate	Soda Ash (Sodium Carbonate)
Dicalcium Silicate	Caustic Potash (Potassium)
Tricalcium Aluminate	Hydroxide
Calcium Carbonate	Calcium Phosphate
Phosphoric Acid	Polythio Carbonate.

4. A treatment material for use in a method for removing a coating, said coating having a hazardous metal or compound contained therein, said treatment material comprising:

- a.
 - i. an alkali metal silicate or alkaline earth metal silicate or portland cement,
 - ii. an alkali metal or alkaline earth metal phosphate, or

iii. an oxide or hydroxide of a magnesium, aluminum, iron, potassium or sodium, wherein (i), (ii) and (iii) are present in a ratio of 10:0:0 to 0:0:1; and

b. a solvent selected from water, aliphatic hydrocarbons, aromatic hydrocarbons, alcohols, esters, glycol ethers, ketones, chlorinated solvents and glycols.

5. A treatment material as set forth in Claim 4 wherein said ratio of part a are between 10:1:0.2 to 7:1:0.5.

7. A treatment material for admixture with a paint stripper comprising:
_____ a) an alkali metal or alkaline earth metal silicate or portland cement;
_____ b) ~~and~~ an alkali metal or alkaline earth metal silicate, oxide, hydroxide or portland cement; and
_____ c) ~~and~~ an alkali metal phosphate, oxide or hydroxide.

8. A treatment material for use with an encapsulant or overcoating comprising:
_____ a) an alkali metal or alkaline earth metal silicate oxide or hydroxide or portland cement; and
_____ b) ~~and~~ an alkali metal or alkaline earth metal phosphate.

9. A treatment material for use with an abrasive in removing coatings, said coatings having a hazardous metal or compound contained therein, said treatment material comprising:

a. an alkali metal or alkaline earth metal silicate oxide or hydroxide or portland cement types I to V; and

b. an alkali metal or alkaline earth metal phosphate.

13. A treatment material comprising magnesium oxide and calcium phosphate, said magnesium oxide and calcium phosphate mixed in an alkyd, epoxy, acrylic, elastomeric or urethane paint system.